

HOUSE BILL No. 1256

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-2.1-23.

Synopsis: Board of animal health fees for dairy program. Allows the board of animal health to establish fees for inspections and licenses. Renames the dairy drug residue abatement fund as the dairy program fund, and requires that the revenue from the inspection and licensing fees be deposited into the fund.

Effective: July 1, 2006.

Gutwein

January 10, 2006, read first time and referred to Committee on Agriculture and Rural Development.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1256

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-2.1-23-2.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. (a) The board may establish**
4 **an inspection fee for Grade A and manufacturing grade milk**
5 **plants, receiving stations, and transfer stations. The inspection fee**
6 **must be assessed on:**

7 (1) the volume of milk received; and

8 (2) the volume of milk products received for further
9 precessing;

10 by a manufacturing plant, receiving station, or transfer station
11 from any source. The assessments for milk and various milk
12 products may be different if the assessments are substantially
13 equivalent.

14 (b) The inspection fee assessed under subsection (a) may not
15 raise an amount that is greater than fifty percent (50%) of the
16 estimated cost of administering and enforcing this chapter.

17 (c) The board shall:

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(1) set a time frame for payment of inspection fees assessed under this chapter; and

(2) allow at least fifteen (15) days from the time of assessment for payment of inspection fees.

(d) The board may establish a license fee not to exceed one hundred dollars (\$100) for any license issued under this chapter.

(e) Fees collected under this section shall be deposited in the dairy program fund established by section 17 of this chapter.

(f) The board may adopt rules under IC 4-22-2 to implement this section.

(g) The board may establish advisory committees to provide input on implementing this chapter.

SECTION 2. IC 15-2.1-23-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.5. (a) The following definitions apply throughout this section:

(1) "DP" or "daily production" means the amount of milk, measured by hundred weight, produced by the positive producer in one (1) day, measured on the day in which the drug residue violation occurred.

(2) "PR" or "producer reimbursement" means an amount assessed against the positive producer to reimburse others for milk contaminated by the positive producer's contaminated milk, not including the value of the positive producer's contaminated milk for which he or she was not paid.

(3) "Revocation period" means the period after a Grade A producer's permit is revoked under this section that the producer may not apply for a Grade A permit.

(b) A penalty established under this section may not be more severe than the penalty standard for drug residue violations adopted by the National Conference on Interstate Milk Shipments in its Pasteurized Milk Ordinance adopted in accordance with the National Conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration. The penalty imposed may not exceed one thousand dollars (\$1,000) for a first offense or two thousand dollars (\$2,000) for a subsequent offense.

(c) The board may impose a civil penalty described in this section on a person that sells or offers to sell milk that contains drug residues.

(d) Milk shall be screened for drug residue violations as follows:

(1) Except as provided in subdivision (2), milk shall be screened for drug residues as required by this chapter and rules adopted by the board. The board may adopt rules governing testing for drug residues in milk that are at least as effective in protecting the

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public health as the federal standards adopted by the National Conference on Interstate Milk Shipments in the Pasteurized Milk Ordinance.

(2) Milk from manufacturing grade dairy farms shall be tested for drug residues as required by this chapter and rules adopted by the board.

(3) All milk that tests positive for drug residues must be disposed of in a manner that removes it from the human and animal food chain or that acceptably reconditions the milk under United States Health and Human Services, Food and Drug Administration compliance policy guidelines. In all cases of drug residue violations, a producer may not resume shipping milk until a drug test conducted by an officially designated laboratory shows the producer's milk is negative for drug residues and the test results are reported to the office of the state veterinarian.

(4) All positive drug residue test results must be called into the office of the state veterinarian immediately, and a written report of the test results must be faxed or delivered to the office of the state veterinarian within twenty-four (24) hours of the test. The producer whose milk tested positive must be notified of the positive drug residue test immediately. The company that conducted the test is responsible for the reporting requirements in this subdivision.

(5) A producer whose milk tests positive for drug residues shall pay a civil penalty and participate in drug residue education activities as follows:

(A) The following is imposed on a producer for the first positive test for drug residues within a twelve (12) month period:

(i) The positive producer must pay a civil penalty to the board equal to the result of the following equation:

(DP times two (2) days times three dollars (\$3)) minus PR. However, if the result is less than five dollars (\$5) then the civil penalty is five dollars (\$5).

(ii) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board of animal health, office of the state veterinarian within thirty (30) days of the drug residue violation. Failure to complete the Protocol and submit proof of completion within thirty (30) days will result in action to suspend the producer's

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1 permit.

2 (B) The following is imposed for a second positive test for
3 drug residues within a twelve (12) month period:

4 (i) The positive producer must pay a civil penalty to the
5 board equal to the result of the following equation:
6 DP times four (4) days times three dollars (\$3).

7 However, if the result is less than five dollars (\$5) then the
8 civil penalty is five dollars (\$5).

9 (ii) The positive producer must, in conjunction with the
10 producer's veterinarian and an official of the board,
11 complete the "Milk and Dairy Beef Residue Prevention
12 Protocol" and provide proof of completion to the board of
13 animal health - office of the state veterinarian within thirty
14 (30) days of the drug residue violation. Failure to complete
15 the Protocol and provide proof of completion will result in
16 action to suspend the producer's permit.

17 (iii) The producer must attend a producer education program
18 or meeting designated by the state veterinarian. The
19 producer is responsible for paying registration and material
20 fees and other costs associated with attending the education
21 program or meeting. The producer must provide proof of
22 attendance to the state veterinarian within ten (10) days of
23 completion of the program or meeting.

24 (C) The third positive test result for drug residues within a
25 twelve (12) month period shall result in the following:

26 (i) The board revoking a producer's Grade A permit if the
27 producer has a permit.

28 (ii) The sanctions for a second offense set forth in clause (B)
29 are imposed.

30 (iii) The producer must submit to the state veterinarian a set
31 of written procedures that the producer will follow to
32 prevent future drug residue violations. The procedures must
33 be submitted with the proof of completion required in clause
34 (B) and must be specific, practical, and reasonably likely to
35 lessen the possibility of a drug residue violation when
36 followed by the producer.

37 (iv) After a producer's Grade A permit is revoked for a third
38 offense violation under this statute, the producer may not
39 receive a new Grade A permit for a revocation period of
40 thirty (30) days from the date of the revocation. After the
41 revocation period, the state veterinarian must issue a
42 conditional Grade A permit to a producer that has applied

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for a permit if the producer has met all of the requirements of this section at the time of application and the producer meets all other requirements of the board for obtaining a Grade A permit. The permit must be issued on the condition that all of the requirements of this section must be completed within the time set forth in this section. A permit issued under this item automatically becomes unconditional after the producer fully complies with all of the provisions of this section.

(D) For each drug residue violation in a twelve (12) month period in excess of three (3) the producer is subject to the penalties for a third offense in clause (C), but for Grade A producers the revocation period will begin on the date the producer's permit is revoked and run for a period equal to two (2) times the length of the revocation period imposed after the producer's last drug residue violation.

(e) The state veterinarian may, by special permit, allow a producer that objects to the imposition of a civil penalty to dump two (2) days of milk production on a first offense and four (4) days of milk production on the second or third offense instead of paying a civil penalty if payment of a civil penalty would impose undue hardship on a producer. The state veterinarian may set the conditions under which the milk is to be dumped and may require documentation from the producer showing the circumstances under which the milk was dumped.

(f) Civil penalties collected under this section shall be deposited in the dairy ~~drug residue abatement~~ **program** fund established under section 17 of this chapter.

SECTION 3. IC 15-2.1-23-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) The dairy ~~drug residue abatement~~ **program** fund is established. ~~to implement education and other programs designed to prevent drug residue violations.~~ Money in the fund is **annually** appropriated ~~for these purposes.~~ **to the board and may be used for any part of the total operating expense of administering and enforcing this chapter.**

(b) The fund consists of:

(1) fees collected under section 2.5 of this chapter; and

(2) civil penalties collected under section 6.5 of this chapter.

(c) The fund shall be administered by the board.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same

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- 1 manner as other public money may be invested.
- 2 (f) Money in the fund at the end of a state fiscal year does not revert
- 3 to the state general fund.

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